

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SAMIA DILLARD and TYREK)
STEPHENS, as Co-Personal)
Representatives of the Estate of)
STEPHANIE PERKINS,)

Plaintiffs,)

v.)

1:17-CV-356

LINCARE, INC., LINCARE)
HOLDINGS INC., INVACARE)
CONTINUING CARE, INC.,)
INVACARE CORPORATION, and)
JOHN DOES 1-3,)

Defendants.)

ORDER AND JUDGMENT

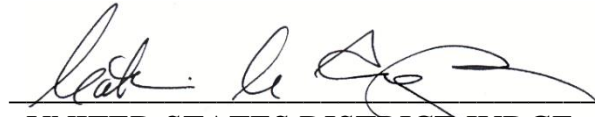
On July 19, 2017, the Court granted a motion to dismiss several defendants because the plaintiff Estate's claims are barred by the statute of limitations. Doc. 42. The Estate seek reconsideration and to amend the complaint to add additional facts. Because the relevant facts the Estate seeks to add by way of the amended complaint were already considered by the court and any amendment would be futile, the Estate's motions will be denied. *See* Doc. 42 at 2. *Simpson v. McConnell*, 156 N.C. App. 424, 576 S.E.2d 419 (2003) is distinguishable, as it concerned a deceased defendant.

The remaining defendant, Lincare Holdings, Inc., also moves to dismiss the complaint based on the statute of limitations. The motion will be granted for the same reasons stated in the Court's earlier order. Doc. 42.

It is **ORDERED AND ADJUDGED** that:

1. The plaintiffs' motion for reconsideration, Doc. 44, is **DENIED**;
2. The plaintiffs' motion to amend/correct complaint, Doc. 46, is **DENIED**;
3. The defendant Lincare Holdings, Inc.'s motion to dismiss, Doc. 47, is
GRANTED; and
4. The case is **DISMISSED** as to all defendants in its entirety.

This the 14th day of September, 2017.


UNITED STATES DISTRICT JUDGE